

IN THE DRAWINGS

The attached sheets of drawings include changes to Figs. 1, 2, 5, and 7. These sheets, which include Figs. 1, 2, 5, and 7, replace the original sheets including Figs. 1, 2, 5, and 7.

Attachment: Replacement Sheets (4 sheets)

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-17 are pending in the present application. Claims 1, 4, 6, 11, 12, and 15 are amended by the present amendment.

In the outstanding Office Action, the drawings were objected to; the specification was objected to; Claims 1-17 were objected to; Claims 1, 3, 6-9, and 11 were rejected under 35 U.S.C. § 102(b) as anticipated by Ichikawa (Japanese Patent Application No. JP 06-130818); Claim 2 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Matsuzaki (Japanese Patent Application No. JP 08-106211); Claim 4 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Isobe et al. (U.S. Patent Publication No. 2003/0123889 A1, herein “Isobe”); Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Asanuma (Japanese Patent Application No. JP 06-083179); Claim 10 was rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Aimoto et al. (U.S. Patent No. 5,310,423, herein “Aimoto”); Claims 12, 13, and 14 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Aimoto; and Claims 15, 16, and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over Ichikawa in view of Isobe.

Regarding the various objections to the drawings, Figures 1, 2, 5, and 7 are amended to address all the matters noted by the outstanding Office Action without adding new matter. In addition, the specification is amended to refer to reference numbers 16, 17, 30, 32, 33, and 34 without adding new matter. Further, Claim 4 is amended to remove the feature “load driven by the agitating device” and now recites “a torque” as disclosed in the specification at

paragraph [0029]. No new matter has been added. Accordingly, it is respectfully requested these objections be withdrawn.

Regarding the objection to the specification, the specification is amended as indicated in the outstanding Office Action without adding new matter. Accordingly, it is respectfully requested this objection be withdrawn.

Regarding the objection to Claims 1-17, both Claims 1 and 11 is amended as suggested in the outstanding Office Action. No new matter has been added. Accordingly, it is respectfully requested this objection be withdrawn.

Claims 1, 3, 6-9, and 11 were rejected under 35 U.S.C. § 102(b) as anticipated by Ichikawa. This rejection is respectfully traversed.

Initially, Applicant notes that the outstanding Office Action relies (see page 5) on various portions of the disclosure of Ichikawa for identifying elements corresponding to the elements of Claim 1. However, no English translation of those portions of Ichikawa has been provided by the outstanding Office Action, except an English translation of the Abstract, although the MPEP § 706.02 II states “[w]hen an abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document.” Accordingly, it is respectfully submitted that all the outstanding rejections are improper because the outstanding Office Action relies on facts not contained into the Abstract of Ichikawa. Further, if the next Office Action continues to rely on the whole document of Ichikawa, Applicant respectfully requests that an English translation of the full text of Ichikawa is provided and also the next Office Action is not a final action (see MPEP § 706.02 II).

However, assuming *arguendo* that the outstanding rejections are proper, independent Claim 1 is amended to more clearly recite that a first characteristic having a first value of a

first measurement device is different from a second characteristic having a second value of a second measurement device. The claim amendments find support in the specification in paragraphs [0026] to [0028] and also in Figure 3. No new matter has been added.

Briefly recapitulating, amended Claim 1 is directed to an image forming apparatus that has, *inter alia*, a first measurement device and a second measurement device configured to measure first and second developer characteristics, respectively. The first characteristic has a first value and the second characteristic has a second value. The first characteristic is different from the second characteristic. In a non-limiting example, Figure 3 shows the measurement of the first measurement device (dashed line) and the measurement of the second measurement device (alternate dots and dashed line).

Turning to the applied art, Ichikawa discloses in the abstract only one sensor 31 for detecting a degree of deterioration of a developer and a controller 32 that compares an output value of the sensor 31 with a reference output value. Thus, Ichikawa does not teach or suggest that the reference output value is measured by a second measurement device as required by Claim 1. Also, Ichikawa does not teach or suggest in the Abstract the need of having the second measurement device for determining a degree of deterioration of the developer. In addition, none of the figures of Ichikawa show that first and second measurement devices measure first and second characteristics such that the first characteristic is different from the second characteristic.

On the contrary, as discussed in the specification at paragraphs [0004] to [0006], the device of Ichikawa measures first and second characteristics which are the same.

Accordingly, it is respectfully submitted that independent Claim 1 and each of the claims depending therefrom patentably distinguish over Ichikawa.

Regarding the remaining outstanding rejections, Applicant respectfully submits that all the remaining outstanding rejections are improper because the outstanding Office Action relies on a disclosure of Ichikawa that is not in English language, contrary to the requirements of MPEP 706.02 II noted above. In addition, none of Matsuzaki, Isobe, Asanuma, and Aimoto cures the deficiencies of Ichikawa discussed above. Further, the rejected claims depend from independent Claim 1, which is believed to be allowable as noted above.

Accordingly, it is respectfully submitted that dependent Claims 4, 5, 10, and 12-17 are also allowable.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

*Surinder Sachar*  
\_\_\_\_\_  
Gregory J. Maier  
Registration No. 25,599  
Surinder Sachar  
Registration No. 34,423  
Attorneys of Record

GJM/SS/RFF/ys  
I:\ATTY\RFF\24S\245716\245716US-AM.DOC